

30-5a-101. Title.

This chapter is known as the "Custody and Visitation for Persons Other than Parents Act."

Enacted by Chapter 272, 2008 General Session

30-5a-102. Definitions.

As used in this chapter:

- (1) "Parent" means a biological or adoptive parent.
- (2) "Person other than a parent" means a person related to the child by marriage or blood, including:
 - (a) siblings;
 - (b) aunts;
 - (c) uncles;
 - (d) grandparents; or
 - (e) current or former step-parents, or any of the persons in Subsections (2)(a) through (d) in a step relationship to the child.

Enacted by Chapter 272, 2008 General Session

30-5a-103. Custody and visitation for persons other than a parent.

(1) In accordance with Section 62A-4a-201, it is the public policy of this state that parents retain the fundamental right and duty to exercise primary control over the care, supervision, upbringing, and education of their children. There is a rebuttable presumption that a parent's decisions are in the child's best interests.

(2) A court may find the presumption in Subsection (1) rebutted and grant custodial or visitation rights to a person other than a parent who, by clear and convincing evidence, has established all of the following:

- (a) the person has intentionally assumed the role and obligations of a parent;
 - (b) the person and the child have formed an emotional bond and created a parent-child type relationship;
 - (c) the person contributed emotionally or financially to the child's well being;
 - (d) assumption of the parental role is not the result of a financially compensated surrogate care arrangement;
 - (e) continuation of the relationship between the person and the child would be in the child's best interests;
 - (f) loss or cessation of the relationship between the person and the child would be detrimental to the child; and
 - (g) the parent:
 - (i) is absent; or
 - (ii) is found by a court to have abused or neglected the child.
- (3) A proceeding under this chapter may be commenced by filing a verified petition, or petition supported by an affidavit, in the juvenile court if a matter is pending, or in the district court in the county in which the child:
- (a) currently resides; or
 - (b) lived with a parent or a person other than a parent who acted as a parent

within six months before the commencement of the action.

(4) A proceeding under this chapter may be filed in a pending divorce, parentage action, or other proceeding, including a proceeding in the juvenile court, involving custody of or visitation with a child.

(5) The petition shall include detailed facts supporting the petitioner's right to file the petition including the criteria set forth in Subsection (2) and residency information as set forth in Section 78B-13-209.

(6) A proceeding under this chapter may not be filed against a parent who is actively serving outside the state in any branch of the military.

(7) Notice of a petition filed pursuant to this chapter shall be served in accordance with the rules of civil procedure on all of the following:

- (a) the child's biological, adopted, presumed, declarant, and adjudicated parents;
- (b) any person who has court-ordered custody or visitation rights;
- (c) the child's guardian;
- (d) the guardian ad litem, if one has been appointed;
- (e) a person or agency that has physical custody of the child or that claims to have custody or visitation rights; and
- (f) any other person or agency that has previously appeared in any action regarding custody of or visitation with the child.

(8) The court may order a custody evaluation to be conducted in any action brought under this chapter.

(9) The court may enter temporary orders in an action brought under this chapter pending the entry of final orders.

Enacted by Chapter 272, 2008 General Session

30-5a-104. Exceptions.

This chapter may not be used to seek, obtain, maintain or continue custody of, or visitation with, a child who has been relinquished for adoption, or adopted pursuant to an order of a court of competent jurisdiction.

Enacted by Chapter 108, 2009 General Session